

REMARKS

In order to promote administrative efficiency and better communication, the Examiner is invited to make suggestions at any time during the proceedings, via phone, fax or e-mail, whenever such suggestions are within the Examiner's discretion as an aid to placing the claims in order for allowance in a timely manner.

In the Drawings:

The Examiner's objection to the drawings as failing to note that figures 3-5 represent the prior art. Applicant attaches replacement drawings incorporating the requested corrections and believes therefore that this objection is overcome. Acknowledgment of this fact is respectfully requested.

Claim Rejections under 102 as being anticipated by Wasilewski:

The Examiner rejected claims 1-4 and 7-9 under 35 U.S.C. §102(b) as being anticipated by Wasilewski, US Patent No. 5,041,118. Applicant traverses this rejection on the grounds that Applicant's claim language clearly requires a *parabolic, non-circular relief*. Nevertheless, Applicant has amended the claim to make this distinction still clearer, by defining an *apex area*, and referring to this area as being parabolic. The relevant portion of the claim now requires that the "the undercut tooth has a ~~parabolic, non-circular relief~~ (490, 590) having an apex area which is parabolic in shape, along which bone chips are guided".

Webster's College Dictionary defines "parabola" as follows:

Pa●rab | o●la (pə rab'ə lə) *n.* ... *Geom.* A plane curve which is the path, or locus, of a moving point that remains equally distant from a fixed point (*focus*) and from a fixed straight line (*directrix*); curve formed by a section of a cone cut by a plane parallel to the side of the cone.

As the Examiner will recall, a characteristic of a parabola is that no segment of which has a constant radius. A circle, on the other hand has a constant radius, as does a flat surface. Wasilewski shows a tooth form that is non-parabolic, in that the apex area has a constant radius, as does the flat surface extending tangentially therefrom (such flat surface having a constant infinite radius). Therefore, it cannot fairly be said that Wasilewski shows a parabolic form.

Claim rejections -- §103 over Wasilewski in view of Szabo:

The Examiner has rejected claims 5-6 under 35 U.S.C. §103(a) as being unpatentable over Wasilewski in view of Szabo (US Patent No. 5,681,315). Applicant traverses this rejection. In light of the arguments above, it cannot fairly be said that Applicant's claim reads on Wasilewski's tooth form, there being no parabolic form disclosed therein. Further, Szabo is not analogous art because all embodiments of Szabo show a relief passage underneath each tooth (see for example FIG. 4A). The fact that such a passage is present in Szabo means that the bone chips continue into the interior of the rasp, and therefore have no need whatsoever of a tooth form that properly returns them out away from the rasp, as is the case with Applicant's invention. Therefore, it is respectfully submitted that the combination of the references is improper. Acknowledgment of this fact is respectfully requested.

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Conclusion

Applicant has made a diligent effort to advance the prosecution of this application by amending claims, and by pointing out herein with particularity how the claims now presented are patentably distinct from the prior art of record. Therefore, Applicant respectfully submits that the claims, as amended, are now in condition for allowance. No new matter has been entered by this amendment. Any limitations to the claims are made solely for the purpose of expediting the prosecution of the application

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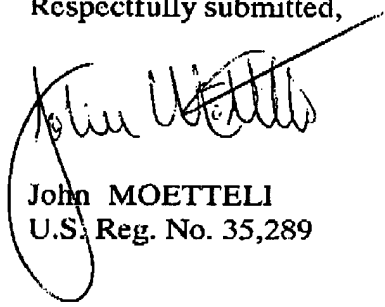
and, unless otherwise expressly stated, are not made to narrow, vis-à-vis the prior art, the scope of protection which any subsequently issuing patent might afford. Again, if the Examiner has further questions, he is invited to contact the undersigned at phone 011-4122-747-7849, fax at 011-4122-347-7887 (Geneva is 6 hours ahead of Eastern Std Time), or e-mail at moetteli@email.com.

Applicant petitions the Commissioner for an Extension of Time under 37 CFR §1.136 for a period of 0 month and the Undersigned authorizes the Commissioner to charge any fee or credit any overpayment of any fee under 37 CFR §1.16 and §1.17 which may be required in this application to the deposit account of BUGNION S.A., no. 50-0800.

Respectfully submitted,

Date :

January 18, 2005


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Enclosure: replacement drawing sheet

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